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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,611	10/16/2001	Nasreen Quibria	57622-049 (ELZK-9)	5118

7590 05/13/2005

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EXAMINER

SKED, MATTHEW J

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/978,611

Applicant(s)

QUIBRIA ET AL.

Examiner

Matthew J Sked

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/21/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The objection to the title is withdrawn in view of the amendment.
2. The objection to the summary is withdrawn in view of the amendment.
3. The objection to claim 3 is withdrawn in view of the amendment.
4. Claims 1 and 3 have been amended to better describe the invention as an automatic telephonic speaker-independent speech recognition application the makes contact with the respondent, generates a speech-generated prompt to the respondent, infers the response to the prompt from the respondent to determine a level of capability of the respondent, if the respondent does understand how to use the system a speech recognition application is generated and if the respondent does not understand how to use the system an explanation of the operation of the application is generated.
5. Claim 2 has been canceled.
6. Claims 4-11 are new.
7. Applicant's arguments with respect to claims 1, and 3-11 have been considered but are moot in view of the new ground(s) of rejection, necessitated by the amendment.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Kassan (U.S. Pat. Pub. 2001/0047261A1).

Kassan teaches a method and system for conducting an automated, telephonic, speaker-independent speech recognition application, comprising:

making telephonic contact with a respondent (system can be applied to outbound telemarketing hence making contact with a respondent, paragraph 73);

presenting the respondent with at least one introductory speech-generated prompt requesting an audio response from the respondent (greeting includes questions for the user, paragraph 74);

utilizing an automated, speaker-independent speech recognition algorithm to process the audio response given by the respondent and inferring from such audio response the level of capability of the respondent, and whether the respondent understands how to interact with the automated, telephonic, speaker-independent speech recognition application (determines if the user needs human intervention for help depending upon either a user's direct request or the performance of the system, which is dependent upon feedback from the user, falls below a certain level, paragraphs 46-48);

based on said audio response, generating the automated, telephonic, speaker-independent speech recognition application if it is inferred from the audio response that the respondent does understand how to interact with the automated, telephonic,

speaker-independent speech recognition application (system would continue normal operation unless it is determined the user needs help, paragraphs 46-48); and

generating an explanation of the operation of said speech recognition application if it is inferred from the audio response that the respondent does not understand how to interact with the automated, telephonic, speaker-independent speech recognition application (if dialog isn't successful a technical support dialog is automatically initiated, paragraph 60).

***Claim Rejections - 35 USC § 103***

10. Claims 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kassan in view of Cohen et al. (U.S. Pat. 6,560,576).

As per claims 4-6 and 8-10, Kassan does not teach wherein generating an explanation of the operation of said speech recognition application includes generating a training exercise for the respondent which includes prompting the respondent to provide a prescribed response and, if the respondent provides the prescribed response, generating the automated, telephonic, speaker-independent speech recognition application.

Cohen teaches a voice-enabled application that provides active help to the user wherein help prompts are triggered by responses from the user, these responses include prompts to train the user how to use the system and to state certain commands, and if those commands are stated the system would respond with a corresponding response or information, col. 6, line 39 to col. 7, line 24 and Table col. 10 to col. 13).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Kassan to generate an explanation of the operation of said speech recognition application includes generating a training exercise for the respondent which includes prompting the respondent to provide a prescribed response and, if the respondent provides the prescribed response, generating the automated, telephonic, speaker-independent speech recognition application as taught by Cohen because this would allow the system to operate without the need for a human supervisor hence making the system more self-sufficient.

11. As per claims 7 and 11, Kassan and Cohen do not teach determining whether the respondent provides the prescribed response, and if not, generating an end of call stage.

However, the Examiner takes Official Notice that ending a phone call when a user has incorrectly stated a command a predetermined amount of times is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Kassan and Cohen to determine whether the respondent provides the prescribed response, and if not, generating an end of call stage because it would allow the system to end a stonewalled session with a user hence saving time and power for the system.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Sked whose telephone number is (571) 272-7627. The examiner can normally be reached on Mon-Fri (8:00 am - 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L Ometz can be reached on (571)272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MS  
5/11/05



DAVID L. OMETZ  
PRIMARY EXAMINER